

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JOAQUIN MENDOZA RAMOS

Plaintiff,

v.

WELLS FARGO BANK, N.A.; et al.,

Defendants.

3:12-cv-0083-LRH-VPC

ORDER

Before the court is defendants' motion to dismiss. Doc. #10.¹ Plaintiff Joaquin Mendoza Ramos ("Ramos") did not file an opposition.

In July 2005, Ramos purchased real property through a mortgage note and deed of trust. Plaintiffs defaulted on the property and defendants initiated non-judicial foreclosure proceedings. Subsequently, Ramos filed a complaint against defendants. Doc. #1, Exhibit A. Thereafter, defendants filed the present motion to dismiss to which Ramos did not respond. Doc. #10.

While the failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion under LR 7-2(d), Ramos's failure to file an opposition, in and of itself, is an insufficient ground for dismissal. *See Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Before dismissing a case, a district court is required to weigh several

¹ Refers to the court's docket number.

1 factors: (1) the public's interest in the expeditious resolution of litigation; (2) the court's need to
2 manage its docket; (3) the risk of prejudice to the defendant; 4) the public policy favoring
3 disposition of cases on their merits; and (5) the availability of less dramatic sanctions. *Id.*

4 Here, these factors weigh in favor of dismissal. The need for the expeditious resolution of
5 cases on the court's docket is strong. Defendants have an interest in resolving this matter in a timely
6 manner. Further, there is a lack of prejudice to Ramos because he has shown an unwillingness to
7 continue litigating his complaint which weighs in favor of granting the motion. Additionally,
8 although public policy favors a resolution on the merits, the court finds that dismissal is warranted
9 in light of these other considerations.

10
11 IT IS THEREFORE ORDERED that defendants' motion to dismiss (Doc. #10) is
12 GRANTED. Plaintiff's complaint (Doc. #1, Exhibit A) is DISMISSED in its entirety.

13 IT IS FURTHER ORDERED that defendants' motion for a hearing (Doc. #17) is DENIED
14 as moot.

15 IT IS SO ORDERED.

16 DATED this 17th day of May, 2012.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE